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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,046

10/31/2006

Gustav Strobel

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EXAMINER

RODDEN, JOSHUA E

ART UNIT

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3637

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10/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,046	<b>Applicant(s)</b> STROBEL, GUSTAV	
	<b>Examiner</b> Joshua Rodden	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/31/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

Claims 1-11 have been cancelled.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16, 17, 18 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 18 recite the phrase “downstream of the pin holder.” However, it is not clear as to what constitutes “downstream.” For purposes of examination, the term “downstream” is understood to mean along the length of the latch and away from the pin holder.

3. Claim 18 (Dependent upon claim 13) recites the limitation "pin holder" in Line 2. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, it is assumed that Claim 18 (Dependent upon Claim 13) intends to introduce the pin holder as the device coupling the latches to the pin.

4. Claim 22 recites “moving in the manner of a parallelogram.” However, it is not clear as to how a “parallelogram” can move. Further, a parallelogram is a four sided object and the applicant’s lever linkage system does not appear to have any relation to a parallelogram. For purposes of examination, the term “parallelogram” will be considered to be equivalent to the lever linkage system as seen in applicants Figure 3,

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wherein a linkage bar (28) vertically moves between two the arcuate slots (20) to lock the latches in a given position.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**6. Claims 13 and 18(Dependent upon Claim 13) are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3808338 (Walker).**

Regarding **Claims 13 and 18 (Dependent upon Claim 13)**, **Walker** teaches:

**Claim 13** – a stacking column comprising two side walls (2 and 3) and latches (5) arranged between the side walls (2 and 3) on a pin (15) for rotation between a rest position into a working position, wherein the latches (5) are assigned a locking device (11) which fixes at least some of the latches (5) in the working position, (Figures 1-3);

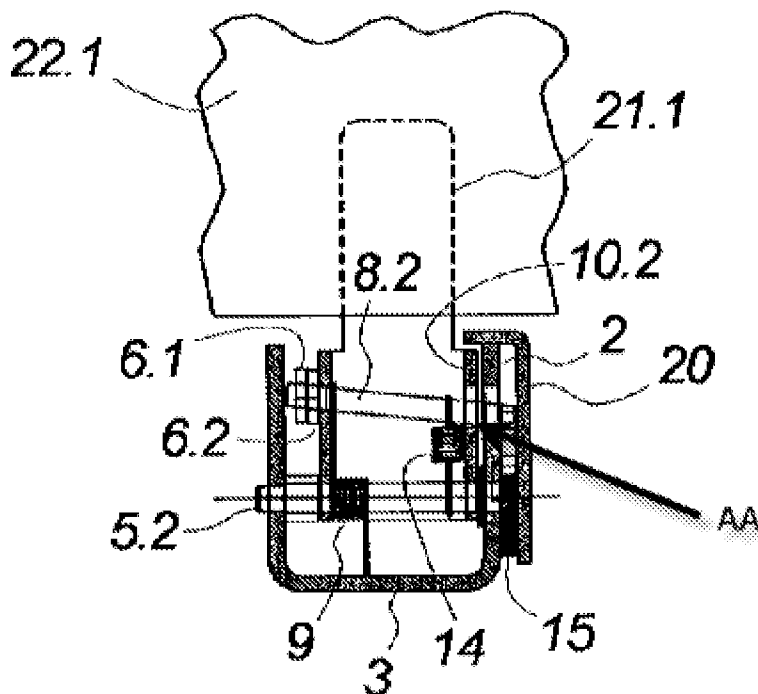
**Claim 18 (Dependent upon Claim 13)** – wherein a supporting part (6) is provided downstream of a pin holder which attaches to the pin (15), (Figures 1-3).

**7. Claims 13 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1340697 (Weldner).**

Regarding **Claims 13 and 18-22**, **Weldner** teaches: **Claim 13** – a stacking column comprising two side walls (2) and latches (21.1-21.3) arranged between the side

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walls (2) on a pin (5.1-5.3) for rotation between a rest position into a working position, wherein the latches (21.1-21.3) are assigned a locking device (6.1-6.3, 8.1-8.3, 12.1-12.4 and 13.1-13.4) which fixes at least some of the latches (21.1-21.3) in the working position, (Figures 3 and 4); **Claim 18 (Dependent upon Claim 12)** – wherein a supporting part (10.1-10.4) is provided downstream of the pin holder on the latch (21.1), (Figure 3); **Claim 19** - wherein the supporting part (10.1-10.4) has a cutout (AA) for receiving part of the locking device (8.2), (Annotated Figure 3 Below); **Claim 20** – wherein a stop lug (10.2) projects from the upper part of the cutout (AA) to stop part of the locking device (8.2) from leaving the cutout (AA), (Annotated Figure 3); **Claim 21** – wherein the locking device (8.2) moves (between slots portions 12.4 and 13.4) in the cutout (AA) by means of a small rail (8.2), (Figure 4 and Annotated Figure 3); **Claim 22** – wherein the small rail (8.1-8.4) is part of a lever linkage (6.1-6.4) which moves in the manner of a “parallelogram” and similarly to the applicants device as seen in applicants Figures 1-7, (Figures 3 and 4).



Annotated Figure 3 (Weldner)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

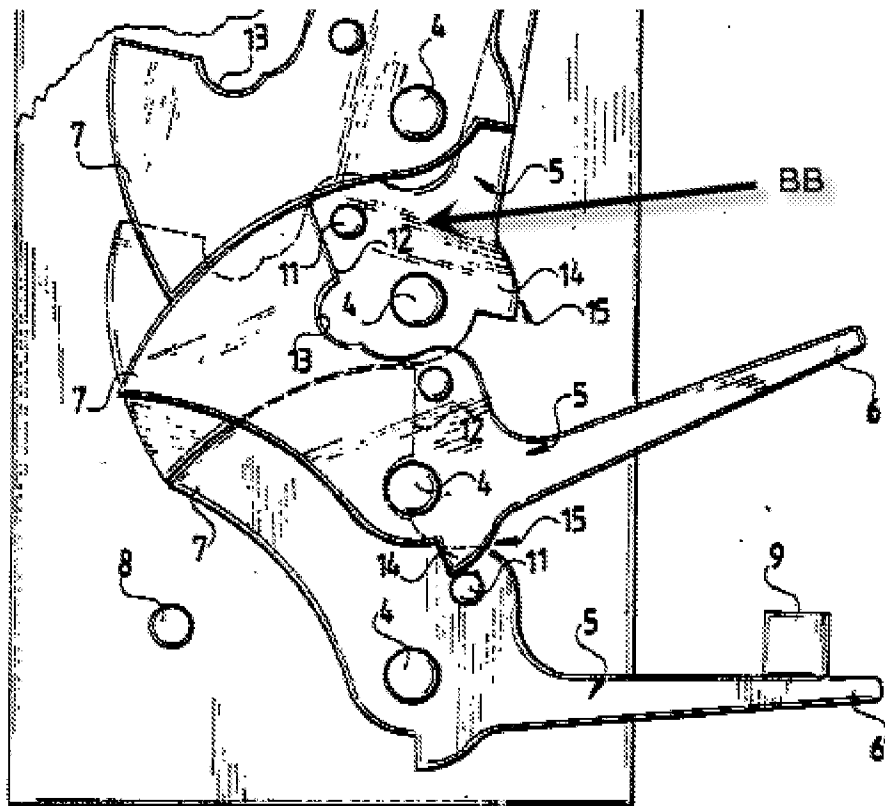
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**10. Claims 12, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE Patent No. 3811310 (Scholler) in view of U.S. patent no. 5,373,756 (Schoeller).**

Regarding **Claims 12 and 14-18, Scholler** teaches: **Claim 12** – a stacking column comprising two side walls (2 and 3) and latches (5) arranged between the side walls (2 and 3) on a pin (4) for rotation between a rest position into a working position, wherein at least some of the latches (5) have a pin holder surrounding the pin (4), (Figures 1 and 2); **Claim 14** – wherein at least two adjacent pins (4) maintain a distance from each other which is greater than and substantially the same as a material thickness (BB) of the latch (5) in the region (BB) of the pin holder, (Annotated Figure 1 Below); **Claim 15** – wherein the latch (5) is of a single piece design, (Figures 1 and 2); **Claim 16** – wherein a driver (7 and 12) protrudes from each of the latches (5) downstream of the pin holder, and when the latches rotate about the pin (4), the driver (7 and 12) acts on an adjacent latch (5) to move the latch (5) into a standby position, (Figure 1); **Claim 17** – wherein the drivers (7 and 12) of successfully following latches (5) are arranged in an alternating manner in the vicinity of respectively opposed side walls (2 and 3), (Figures 1 and 2); **Claim 18** – wherein the supporting part (6) is provided downstream of the pin holder, (Figure 1).



Annotated Figure 1 (Scholler)

**Scholler** does not teach: wherein the latch has a pin holder which only partially surrounds the pin in an arcuately curved manner (**Claim 12**). However, **Schoeller** teaches: **Claim 12** - a latch (1) for use in a stacking column wherein the latch has a pin holder (5) which only partially surrounds a pin in an arcuatley curved manner, (Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify the stacking column of **Scholler** to have the latch having a pin holder which only partially surrounds the pin in an arcuately curved manner (**Claim 12**) as taught by **Schoeller** for the purpose of being able to easily replace a damaged latch.



***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents No. 4,712,691 (Grill et al.), No. 5,217,121 (Walker), No. 6,234,743 (Strobel), No. 6,405,883 (Schambach), U.S. Patent Application Publication No. 2004/0050813 (Strobel), and EP 1637479 (Jimenez) all disclose very similar style stacking columns.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Rodden whose telephone number is (571) 270-5222. The examiner can normally be reached on M-Th 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3637

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Supervisory Patent Examiner, Art Unit 3637